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Applicant: Koszinowski et al.

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**DECLARATION UNDER 37 C.F.R. § 1.132 OF
ULRICH H. KOSZINOWSKI**

I, Ulrich H. Koszinowski, do hereby declare:

1. I am a co-inventor and co-owner of the above-referenced patent application. I am Professor of Virology and hold the Virology chair at the Ludwig-Maximilians-University of Munich. A copy of my *curriculum vitae* is enclosed herewith.

2. I have read Chartier et al., *J. Virol.*, 70: 4805-4810 (1996).

3. The method disclosed in the Chartier reference cannot be used to generate infectious virus genomes that are larger than an adenovirus genome (i.e., larger than about 36 kilobases). In particular, the technique of Chartier is not suitable for cloning herpes virus genomes, as demonstrated by the experiments described below, which were conducted at my direction.

4. As of 1997, the direct cloning of infectious herpesvirus genomes into plasmids *in vitro* was not possible and had not been reported. The inability to directly clone infectious